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SUMMARY RECORD OF THE 7th MEETING

Chairman: Mr. CISSE (Senegal)

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The meeting was called to order at 10.25 a.m.

AGENDA ITEM 93: ELIMINATION OF RACISM AND RACIAL DISCRIMINATION (continued) (A/49/18, A/49/287-S/1994/894, A/49/403, 404, 464 and 499)

AGENDA ITEM 94: RIGHT OF PEOPLES TO SELF-DETERMINATION (continued) (A/49/271, A/49/287-S/1994/894, A/49/312, 331, 362, 381 and 402)

1. Mr. TESSEMA (Ethiopia) welcomed the fact that peoples of different parts of the world were at last able to exercise their right to self-determination, which was an integral element of human rights and democracy. He particularly hoped that South Africa, where the will of the people had brought about a peaceful transition, would stand as an example to other countries. It was, however, unfortunate that the international community and sometimes even those institutions which had been established to uphold the right of peoples to self-determination still hesitated to give practical recognition to that right, arguing that it clashed with the principles of non-interference in the internal affairs of States and of respect for the territorial integrity and sovereignty of States. Those principles were important, but only in so far as they did not hinder enjoyment of the right of peoples to self-determination. The international community should bring about a balance between the two concepts without violation of international norms.

2. Ethiopia had suffered for many years under a policy of denial of the right to self-determination in Eritrea. It was thus on the strength of that experience that it was possible to assert that it was less costly in the long term to recognize the right of peoples to self-determination than to uphold obstinately the principle of territorial integrity at the expense of peoples. He pointed out, however, that self-determination was not another term for secession, as many wrongly believed. His Government was convinced that unity was always preferable to separation. That unity must, however, be based upon the free will of the people in question, who should be able to govern themselves, preserve their culture and language, and practise the faith of their choice. For that reason, the Constitution of Ethiopia recognized the right of peoples to self-determination, in the hope that a repetition of past conflicts might be avoided. The right to self-determination was not simply a basic human right, but also an important prerequisite for resolving conflicts and maintaining peace. Peace could not exist without respect for human rights.

3. Mr. NTAKIBIRORA (Burundi), referring to agenda item 93, hailed the recent eradication of apartheid and the advent of a new political order in Africa after years of struggle by the international community. Such a development gave cause for hope that, one day, calm would be restored permanently to other hotbeds of tension. Burundi was all too aware of the social upheavals that political instability in a country could cause, and supported all the initiatives taken by the Secretary-General to encourage the peoples of Rwanda, Liberia, Somalia and Angola to proceed by dialogue and consultation, with the aim of ending the ethnic conflicts which had devastated those countries.

4. With regard to Burundi, he pointed out that the report of the Committee on the Elimination of Racial Discrimination (CERD) (A/49/18), which referred to the situation in Burundi, had been produced in the midst of the crisis resulting from the assassination of the first democratically elected President on 21 October 1993. That probably explained why the report failed to take account of the complex realities of Burundi in some of its analyses and conclusions. On the question of providing information on the implications of the conflict for the implementation of the provisions of article 5 (b) of the International Convention on the Elimination of All Forms of Racial Discrimination, he said that his Government had requested assistance with an impartial international inquiry to establish responsibility for the events of October 1993, in order to comply with the requirements of CERD. In answer to the question posed in paragraph 33 of the report, he said that matters such as army reform, refugees and arms trafficking had a high priority in current government policy and had been written into the agreement which had brought the Government into office. Regarding the massacres mentioned in the same paragraph, he pointed out that Burundi could not tolerate any kind of repression, for whatever reason it was carried out. He was, however, surprised that CERD only referred to the cases of brutal repression against members of the Palipehutu party, which was an extremist movement preaching racial hatred, division and ethnic purity, as well as advocating armed struggle. The fact that innocent Hutus and Tutsis had been massacred for their ethnic and political allegiance had been forgotten. It was inconceivable that his Government would consider concluding agreements with a movement of that character which rejected the provisions of the Convention. Contrary to what was stated in paragraph 34 of the report, avenues of redress did exist for the victims of human rights violations, through the Minister with responsibility for the rights of the human person, the Centre for the Promotion of Human Rights and associations for the defence of human rights. As a response to the question posed in paragraph 35 of the report, he said that seminars and symposia had been organized in Burundi to teach human rights to judicial, police and army personnel, with the participation of the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross.

5. Lastly, he said his country was aware that political instability had set the style for disturbances which the people of Burundi deplored and wished to avoid in future. For that reason, his Government, wishing to implement effectively the provisions of decision 2 (45) on the situation in Burundi adopted by CERD on 16 August 1994, had made several undertakings: to restore peace and security in Burundi; to disarm the civilian population and disband the militias; to establish a national security council; to reintegrate displaced persons, and repatriate and resettle refugees; to adopt a national agreement on peaceful coexistence among the various ethnic groups and a modified constitution; to foster peace, tolerance and democratic values among the population, especially young people; and to ensure the independence of the judiciary and the proper administration of justice.

6. Mrs. KOVALSKA (Ukraine) said that, in a world of rapid and sometimes contradictory changes in which it was more than ever necessary to develop new international approaches conducive to preventing conflict by encouraging the adoption of fair and flexible solutions, the right of peoples to self-determination took on a new dimension.

7. Her delegation welcomed the efforts that had been made to establish procedures for solving the problems raised by realization of the right of peoples to self-determination. It was in favour of the realization of that right through autonomy but objected to the suggestion made by some representatives in their statements that the principle should be extended to national or regional minorities.

8. As she had stated during the forty-eighth session of the General Assembly, her delegation believed that a shared territory, language or religion was not enough to justify exercise of the right to self-determination. That right could be exercised only by an ethnic group that was not represented by a State within the borders of the country in which it was found. As for ethnic groups and linguistic, religious or other minorities which were so represented, they could exercise their freedom of expression and defend their cultural and ethnic identity.

9. In that connection, her delegation stressed the need for a convention on the rights of minorities, as well as the importance of the draft universal declaration on the rights of indigenous peoples on which the Subcommission on Prevention of Discrimination and Protection of Minorities was working, albeit slowly.

10. As recent events in Eastern Europe illustrated, in proper exercise of the right to self-determination and the absence of an international definition of who was entitled to that right hindered the development of international relations and contributed to the destabilization of States. It was necessary for all States to recognize that the right to self-determination could be exercised only in strict accordance with constitutional procedures and national law. Because the right to self-determination was closely linked to the notion of territorial integrity and inviolability of borders, it was imperative to establish mechanisms that would enable peoples to exercise that right without any political, economic or military pressure.

11. It was up to the State to grant autonomy and to determine the conditions thereof on the basis of each country's historical specificities.

12. Anxious to redress the situation of the Tatar people of Crimea, who had been deported by the preceding regime, her country had granted broad administrative autonomy to Crimea; however, that had not put an end to the claims ascribed to the "Crimean people", a people whose existence was not recognized under international law.

13. Her delegation considered the problem of Crimea to be a direct consequence of the distortion of inter-ethnic relations caused by totalitarianism and the policy of forced Russianization. Calling into question her country's borders, which were recognized by international law, did nothing to stabilize the situation in Crimea. Her country was doing everything in its power to overcome the grievous consequences of totalitarian policy.

14. Her delegation believed that developing regional and bilateral cooperation would make it possible to prevent inter-ethnic tensions effectively. She

invited the international community to elaborate international norms acceptable to all States and to create conditions that would promote economic, social and cultural development while respecting the equal rights and common interest of all peoples.

15. Mrs. BARGHOUTI (Observer for Palestine) said that agenda items 93 and 94 deserved the full attention of the international community, because peace, stability and democracy throughout the world were being threatened by countless forms of racism and discrimination and the denial and violation of human rights - a phenomenon which contradicted the principles of the Charter, the Universal Declaration of Human Rights and various human rights covenants and conventions. However, the institution of a non-racial, democratic society in South Africa gave humanity hope that all forms of discrimination and oppression might one day be eliminated.

16. The right to self-determination, which was defined in the Charter, had been reaffirmed as a fundamental right in other instruments of international law, most recently in the Vienna Declaration and Programme of Action (part I, para. 2), which had been adopted in June 1993.

17. The peace process in the Middle East had led to mutual recognition between the Palestine Liberation Organization and the Government of Israel and the signing by both parties of a Declaration of Principles on Interim Self-Government Arrangements, which explicitly recognized the Palestinians as a people, with a distinct representative. There was therefore no reason for anyone not to recognize the right of the Palestinian people to self-determination as a matter of principle. That right could be exercised within the existing peace process, and its recognition did not prevent either party from pursuing its preferences with regard to the outcome of the process.

18. Her organization believed strongly that the international community and the General Assembly should uphold the Charter, international law and international humanitarian law. It therefore hoped that the draft resolution reaffirming the right of the Palestinian people to self-determination on the basis of the principles and provisions of the Charter of the United Nations and other instruments of international law, which it planned to submit to members of the Committee, would be adopted by consensus.

19. Ms. CORNETTE (Guyana) speaking on behalf of the Caribbean Community (CARICOM), welcomed the dismantling of apartheid and the holding of the first free and democratic elections in South Africa. The countries of the Community had always been committed to eliminating apartheid and would continue to support the people of South Africa in their efforts to remove the remnants of that system. The international community as a whole must move quickly to commit itself to assisting that country in that difficult period of transition. The Third Decade to Combat Racism and Racial Discrimination provided the framework required for such action.

20. The dismantling of apartheid should not cause anyone to forget that almost everywhere in the world acts of racial discrimination against, inter alia, migrant workers, ethnic minorities, indigenous peoples, refugees and religious

groups were on the increase. In that connection, the Caribbean Community strongly supported the decisions contained in the latest report of the Committee on the Elimination of Racial Discrimination (A/49/18) and noted its decision to contribute to United Nations peace-building efforts in Rwanda in order to prevent a recurrence of the gross and massive manifestations of racial discrimination and ethnic conflict that had recently ravaged that country. That issue was a subject of grave concern to the Caribbean Community, which believed that, on a general level, it was necessary to formulate new strategies in order to identify and eradicate all forms of discrimination as soon as they appeared.

21. The International Convention on the Elimination of All Forms of Racial Discrimination remained one of the principal instruments of international cooperation in the struggle against racism and racial discrimination, and it was encouraging to note that, as of 31 August 1994, 139 countries had acceded to or ratified the Convention. However, that figure could still be improved on, given that practically no country was totally free from racism and racial discrimination. It was incumbent on all States parties to the Convention to ensure that its provisions were complied with.

22. The appointment of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance would no doubt serve to focus more attention on the growing problem of racism and racial discrimination and would, it was hoped, lead to greater cooperation between the United Nations and the States concerned. The Caribbean Community urged all countries to give their full support to the Special Rapporteur in the execution of his mandate and encouraged the Special Rapporteur, the High Commissioner for Human Rights and the Committee on the Elimination of Racial Discrimination to coordinate their activities more closely in the interest of greater effectiveness.

23. In the view of the Caribbean Community, respect for the rights of all social groups could be achieved only by taking preventive action, such as educational measures aimed at establishing an environment of peace, tolerance and mutual respect. In that connection, it noted that one of the goals of the proposed decade for human rights education was to educate the public in that field. The United Nations Year for Tolerance which was to be celebrated in 1995 and the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination should provide an excellent opportunity for such action.

24. The Third Decade to Combat Racism and Racial Discrimination would provide an opportunity to pursue efforts to eradicate the racial prejudices that caused untold suffering throughout the world, and the international community should therefore do its utmost to ensure that the Programme of Action for the Decade was implemented as fully as possible. Although nearly two years had elapsed, since the Decade had been proclaimed, only one country, Japan, had contributed to the Trust Fund for the Programme. That was a matter of particular concern since the relative failure of the previous two Decades to Combat Racism and Racial Discrimination had been due mainly to lack of funding. The Caribbean Community consequently urged Member States of the United Nations to make sufficient contributions to the Trust Fund to allow for the implementation of the numerous programmes provided for under the Third Decade.

25. The right of peoples to self-determination, which was recognized in the Charter of the United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, was a fundamental right that was inseparably linked to human rights. The Caribbean Community considered that all citizens had the right to participate effectively in the administration of the public affairs of their countries, and noted that the principle of such participation was well entrenched in its member countries.

26. The persistent use of mercenaries who, as the Special Rapporteur on the question of the use of mercenaries had said, violated the principles of sovereign equality, political independence and territorial integrity of States and self-determination of peoples continued to give cause for concern. In Mozambique, where mercenaries had been particularly active during the 17 years of armed conflict, the success of the peace process under way was encouraging. CARICOM, which fully supported that process, would be sending observers to monitor the presidential and legislative elections to be held at the end of the month, and urged all parties concerned to respect the right of the people of Mozambique to self-determination.

27. Mrs. KYEYUNE (Uganda) welcomed the arrival on the international scene of a democratic, non-racial South Africa. The dismantling of apartheid marked the end of a long struggle which had called for tireless efforts on the part of the international community in order to overcome what had appeared to be an intractable situation. South Africa should be a source of inspiration to all peoples still suffering from racism and racial discrimination.

28. That being said, although the policy of apartheid had been abolished, the social and economic imbalances to which it had given rise remained. It was for that reason that Uganda fully supported the call made by the President of South Africa, Mr. Nelson Mandela, to the international community to consolidate democracy in the country by assisting South Africa in overcoming those social and economic imbalances.

29. Uganda was also alarmed to note the widespread rise, though in varying degrees, of racism, racial discrimination, xenophobia and other forms of intolerance, especially in Rwanda and in Bosnia and Herzegovina. The United Nations and the international community must condemn outright all manifestations of racism and discrimination and the perpetrators of such acts. Uganda therefore welcomed the Security Council's decision to establish an International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, and the Secretary-General's initiative in setting up an impartial commission of experts to investigate violations of international humanitarian law and acts of genocide committed in Rwanda.

30. Regarding the right of peoples to self-determination, Uganda welcomed the conclusion of the interim self-government arrangements in the Gaza Strip and the Jericho Area, which was a step towards a just and lasting settlement of the conflict in the Middle East on the basis of the Security Council resolutions.

It was to be hoped that the parties would continue along the path of peace that they had chosen.

31. Finally, with regard to the report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/49/362), Uganda had noted with concern that Africa was the region most seriously affected by that phenomenon. The situation in Angola, where there was reportedly a profusion of sophisticated weapons and mercenary activity, called for intensified regional and global action to put an end to the suffering of the Angolan people and to enable the country to develop.

32. Mr. HEGYI (Hungary) said that the elimination of racial discrimination, which derived directly from the principles set forth in the Charter of the United Nations and the Universal Declaration of Human Rights, had always been central to United Nations human rights activities. The importance of that issue was, moreover, widely recognized, since a large number of countries (139) had acceded to the International Convention on the Elimination of All Forms of Racial Discrimination or had ratified it and 20 of them, including Hungary, had made the declaration provided for under article 14. Hungary followed the work of the Committee on the Elimination of Racial Discrimination with great interest; the Committee, which was responsible for monitoring the implementation of the Convention, had completed a huge amount of work by examining the 32 reports submitted to it. The Hungarian delegation supported the general recommendation contained in the Committee's latest report (A/49/18) calling for the establishment, as quickly as possible, of an international tribunal with general jurisdiction to prosecute genocide and crimes against humanity. It also supported the proposal with a view to supplementing the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination contained in the note by the Secretary-General (A/49/464).

33. The abolition of the apartheid regime in South Africa undoubtedly represented a great step forward; by contrast, the end of the cold war had not brought with it the expected great changes in the field of human rights. New forms of racism, racial discrimination, intolerance and xenophobia, affecting minorities, ethnic groups, migrant workers, indigenous populations, immigrants, refugees and others were to be found in various parts of the world. One had only to read the report of the Special Rapporteur on the former Yugoslavia, or to follow the events that were taking place in Rwanda, to be fully convinced of the gravity of the situation. Hungary welcomed the establishment of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, with which Hungary was ready to cooperate. It was also pleased that the Commission on Human Rights had adopted a resolution to appoint a Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

34. In Hungary and in the new democratic States of the region which had emerged in recent years, Governments had had to take action to repress manifestations of xenophobia, anti-Semitism and ethnic hatred. It should be pointed out, however, that in the elections held in Hungary in May 1994, the extremist forces that

advocated discrimination and intolerance of ethnic groups or followers of minority religions had suffered a crushing defeat. That was due not only to the sound political judgement of the Hungarian people, but also to the provisions of the Hungarian Constitution safeguarding equal rights for all human beings and those of the Penal Code sanctioning all forms of discrimination. In 1993, the Hungarian National Assembly had adopted an act on the rights of national and ethnic minorities which was based on the recognition that it was not enough simply to prohibit discrimination against minorities but that it was necessary to protect their rights more actively. In that connection, Hungary supported the idea that the role of the Committee on the Elimination of Racial Discrimination should be extended to include the rights of persons belonging to minorities, in accordance with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted in 1993.

35. A substantive analysis of agenda item 94 must be made, since the realization of the right to self-determination was a condition for the full enjoyment of other human rights and was related to the application of principles of international law. Hungary believed that if the identity and rights of minorities were guaranteed, for example through various forms of self-government, the stability of the country to which they belonged could not fail to be strengthened. That did not mean, however, that the right to self-determination was tantamount to a right to secession. The basic principle to which Hungary adhered was that of the inviolability of existing national borders, and it was that principle that guided its relations with neighbouring countries.

36. Finally, although the signing by Israel and the Palestine Liberation Organization (PLO) in 1993 of the Declaration of Principles on Interim Self-Government Arrangements, and the withdrawal of Russian troops from the Baltic States, which represented the realization by the peoples of those countries of the right to self-determination, were welcome developments, the continued threats to the security of Kuwait and the whole Middle East region were cause for concern.

37. Mr. BEN AMOR (Tunisia) said that the world had recently witnessed two felicitous events: the dismantling of the institutionalized form of racism which had constituted the apartheid system in South Africa and, secondly, the positive developments in the situation in the Middle East with the signature of the Declaration of Principles on Interim Self-Government Arrangements by Israel and the Palestine Liberation Organization in September 1993. In that connection, Tunisia pointed out that, under the leadership of its President, it had always actively worked to promote the efforts to achieve peace between the two parties in the Middle East conflict. In the context of the peace process, it had also hosted two multilateral negotiation sessions and was now proposing to host a third.

38. Despite the aforementioned progress, racism and racial discrimination were still rife in new forms in various parts of the world. Tunisia was disturbed by the resurgence of intolerance and xenophobia shown towards vulnerable groups such as migrant workers and minorities, who were victims of racist policies and

all types of rejection. Concerning migrant workers in particular, it reiterated its appeal to host countries to intensify their fight against racism and xenophobia, and recalled the proposal made in 1993 by the Tunisian President before the European Parliament to establish a charter on Maghreb workers in Europe that would make it possible to define the responsibilities, rights and obligations of the various parties concerned.

39. Concerning the abhorrent ethnic cleansing in Bosnia and Herzegovina, the already alarming situation was steadily worsening. The Tunisian delegation therefore once again called upon the international community as a matter of urgency to take the necessary measures to ensure that the aggressor accepted the settlement plan. It also asked for the United Nations security zones to be strengthened and extended, as recently requested by the President of Bosnia and Herzegovina.

40. Tunisia had always supported those who combated racism in any form; that was a mainstay of its foreign policy. At the national level, it had made a point of instilling in the individual the principles of equality and non-discrimination, through education, thereby abiding by its own ideals of social tolerance, peace and justice and the defence of human rights. In March 1994, it had submitted to the Committee on the Elimination of Racial Discrimination four reports on the measures it had taken to implement the International Convention on the Elimination of All Forms of Discrimination, particularly those prohibiting the granting of Tunisian nationality on the basis of racial or religious criteria and making incitement to racial hatred and defamation on racial or religious grounds punishable offences.

41. Mr. CRAPATUREANU (Romania) noted that the Universal Declaration of Human Rights, the human rights Covenants and particularly the International Convention on the Elimination of All Forms of Racial Discrimination, as well as many other instruments adopted at the regional level, all emphasized that the practice of discrimination was totally unacceptable.

42. Over the past two years, significant new developments had occurred. First, a democratic and non-racial society had been established in South Africa where, following the historic multi-party agreement in September 1993, the first multiracial elections had been held in April 1994. The Romanian delegation took the opportunity to welcome back the representatives of South Africa to the activities of the Third Committee. Secondly, with the adoption of its resolution 1993/11 the Commission on Human Rights had appointed a Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, whose activities Romania fully supported, since no society was totally immune from such phenomena, the complex and different causes of which ranged from lack of education and information to the sensitive issue of domestic social and economic disparities. Thirdly, Romania shared the view of other delegations that implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination should focus on education and national legislation. The expertise of the Centre for Human Rights, whose activities Romania commended, could be of the utmost importance. His delegation supported the proposal of the Algerian delegation to delete the first part of the Programme of Action, which contained outdated references.

43. Romania, which rejected all manifestations of racism, racial discrimination and other forms of intolerance, was convinced that every civil society should conduct an open-hearted dialogue between its members focused on mutual respect, tolerance and education. It should also adopt and be guided by effective legal provisions on the subject. Romania was a party to all major instruments in the field of human rights, and its Constitution (article 20) provided that in the event of any inconsistency between its internal law and international covenants and treaties, the latter would take precedence.

44. Turning to agenda item 94, he said that the right of peoples to self-determination, enshrined in various international instruments, had recently been mirrored in the consensual text adopted by the World Conference on Human Rights, held in Vienna. It believed that the right to self-determination was closely related to human rights and democratic values and processes. That right entitled all peoples to determine freely their political status and to pursue freely their economic, social and cultural development. Applied in earlier times to the situation of peoples in trust territories and colonies, the right to self-determination in the post-cold-war era had become more and more connected with the right of the governed to participate in democratic governance, a tendency that Romania endorsed.

45. Delegations had the moral duty to encourage and support, through the United Nations, the peace process that was going on in the Middle East, and the consolidation of a new non-racial democratic society in South Africa. A more realistic approach should therefore be adopted and no effort spared to ensure that resolutions submitted to the Third Committee no longer contained outdated references to South Africa or the Middle East.

46. Mr. MORARU (Republic of Moldova), speaking on agenda item 94, said that with regard to the protection and observance of human rights, only the facts demonstrated the true intentions of Governments. His country was therefore making continuous efforts to change its internal legal framework to suit international standards. At the same time, it was taking measures to guarantee the rights of its national minorities, some of which had been on the verge of losing their identity at the time of Soviet dominance. Under the new Constitution, specific forms of administrative organization could be granted to some human settlements in the east and south of the country under precise juridical provisions adopted through constitutional laws. The democratization of society and the establishment of the rule of law, guaranteeing full respect for various human rights, were closely connected with the right to self-determination. That right applied to peoples as subjects of international law, and any interpretation aimed at associating the right to self-determination with the right of secession had no grounds, being in conflict with the relevant international documents.

47. In Central and Eastern Europe, the totalitarian regimes had generated ethnic frictions and conflicts that had their origins in older rivalries, whereas others, as in the case of the conflict which had erupted in 1992 in the Republic of Moldova, were inspired and supported from abroad in order to rebuild and maintain old colonial influences. The separatist tendencies which had recently appeared in the newly independent States that were States Members of

the United Nations had nothing to do with the natural aspiration of peoples to self-determination. The attempts to compare the two or even to establish any ethnic or national community structures parallel to those of the Government were counter-productive and dangerous in terms of regional and global stability and security.

48. Moreover, in the Charter of the United Nations, the right to self-determination was treated as a principle which provided no basis for infringing the principle of the independence and territorial integrity of States. In examining that problem, one must consider the real character and basic features of the separatist movements. In that connection he enumerated the experiences gained from the situation which prevailed in the east of the country. First, those separatist movements were characterized by political extremism and emphasis on exclusion ideologies, the ethnic factor being subordinated to their political ends. Secondly, they made claims to self-determination in order to obtain legitimacy in the eyes of international public opinion. In the case of the Republic of Moldova, the arguments most often used were that the rights of linguistic minorities should be respected, whereas the majority of persons belonging to those respective linguistic minorities had never formulated such claims. That had been confirmed by the missions sent to the Republic of Moldova by the United Nations and the Conference on Security and Cooperation in Europe. Thirdly, flagrant violations of human rights were occurring in the areas controlled by separatists and had resulted in thousands of refugees, the prohibition of freedom of expression and the illegal incarceration of even imaginary opponents. The prohibition on studying in the mother tongue on the basis of Latin script in the Transnistian area had been added to that list of violations of the self-proclaimed authorities.

49. Member States should intensify their efforts and the United Nations should adopt a firm position concerning the content, definition, scope and field of application of the principles of self-determination so that it did not become a pretext for the infringement of international law, as had so often happened before.

50. Mr. MAHMOOD (Pakistan) said that, even though the twentieth century could be viewed as the century of self-determination, which was the principle behind the formation of all the nation States that had become Members of the United Nations, there were still instances where the right of self-determination was being denied through foreign occupation or domination, as in Bosnia and Herzegovina, in Azerbaijan, and in Kashmir.

51. The people of Jammu and Kashmir, whose right to self-determination had been promptly recognized by the United Nations, were currently unable to exercise that right. However, at the time of the partition of the South Asian subcontinent, Prime Minister Nehru of India had clearly stated that, in the event of a dispute about the accession of a State to either India or Pakistan, it was for the people of that State to decide.

52. The right of the Kashmiri people to self-determination had been explicitly recognized by several resolutions of the Security Council, according to which the final disposition of the State should be made in accordance with the will of

the people through a properly organized plebiscite. Since that decision by the Security Council had been explicitly endorsed by India and Pakistan, it constituted a binding international agreement.

53. Those Security Council resolutions were the only agreed basis for a solution of the Kashmir dispute but they had never been followed up by any plan to resolve the matter. India had used every possible means to prevent the population of Kashmir from exercising the right to self-determination that had been recognized by the Security Council, but that in no way impaired the validity or the binding nature of those resolutions for all parties - India, Pakistan and the United Nations. They could only be invalidated by another resolution of the Council. The right to self-determination was imprescriptible; it only remained to be fully exercised.

54. India had argued that the population of Kashmir had been able to exercise its right to self-determination through "elections" held in that state. However, apart from the fact that the elections had been rigged, the Security Council had stated that the unilateral action taken by India, such as the convening of a so-called "Constituent Assembly", which had declared affiliation with India, could not be taken as a starting-point for determining the international status of the state, and made a mockery of the principle of the plebiscite. In 1972, the Simla Agreement had merely said that the final settlement of the question of Jammu and Kashmir would be achieved through bilateral negotiations between India and Pakistan, a procedure to which both countries had already resorted repeatedly in the past. That Agreement had nevertheless reaffirmed their commitment to the Charter of the United Nations, which obliged them to implement the resolutions of the Security Council, and therefore to base any agreement on the principle of self-determination.

55. Kashmir was not, and never had been, a part of India. To portray Kashmir as "India's only Muslim majority state" was not only legally incorrect but was a contradiction in terms. Since it was a Muslim majority area it should, in accordance with the principle of partition, have been a part of Pakistan. The Declaration on the Granting of Independence to Colonial Countries and Peoples, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States and General Assembly resolution 2649 (XXV) recognized the legitimacy of the struggle of peoples under colonial or alien domination to restore their right to self-determination by all available means. That had also been acknowledged by the Declaration adopted by the World Conference on Human Rights held in Vienna in 1993.

56. India's depiction of the virtually defenceless Kashmiri people as terrorists was a classic colonialist ploy. Under cover of the state of emergency, the largest occupation force in colonial history was able to repress, kill, torture and rape with impunity. The line of control in Kashmir was mined and guarded by the Indian army with 900 soldiers being deployed per kilometre, and was thus made virtually impenetrable. The Minister for Foreign Affairs of Pakistan had proposed to the Security Council on 3 October that the number of United Nations military observers in India and Pakistan should be increased from 35 to 200 and that they should be enabled to patrol on both sides of the line of control. If India wished the world community to verify the truth of its

allegations about Pakistan's interference in Kashmir, it should be able to accept that proposal.

57. India's strategy in Kashmir was as simple as it was brutal. It was to suppress the Kashmiri freedom movement and then to impose a "political process" which would be nothing but a fraud. Thanks to Amnesty International and many other organizations, the entire world was well aware of the systematic violations of human rights which India continued to commit in Kashmir: torture, rape, summary execution, the burning of villages as a means of collective reprisal against persons suspected of supporting the militants. However, the world had hardly reacted to what had happened in Kashmir. At the beginning of the year, India had gained the impression that the major Powers, interested in trade and profits, were prepared to overlook India's atrocities in the region, and it had therefore escalated its repression. It had even assumed a belligerent posture towards Pakistan. The Prime Minister of India had threatened to send his forces to take over Azad Kashmir and Indian politicians and generals had warned of attacks on the other side of the line of control.

58. The entire population of Kashmir which, contrary to affirmations by the Indian Government, was continuing its struggle with its spirit unbroken, wanted India to give it its freedom. After five years of brutal repression India, which had been caught in a quagmire, must finally admit - and the sooner the better - that the Kashmir dispute could not be resolved through the use of force. The world must not allow India to commit genocide in Kashmir. In order to bring peace, the delegation of Pakistan considered that three aspects of the Kashmir question should be addressed simultaneously. In the first place, tension should be reduced to avoid a war between India and Pakistan, the consequences of which would be disastrous. That was the purpose of the Pakistani proposal to increase the number of United Nations observers along the line of control. Second, and most important, India must be persuaded to give up the use of force as a means of resolving the crisis in Kashmir. The Pakistani delegation was pleased that India had released the ageing Kashmiri leaders, including Shabir Shah, the Nelson Mandela of Kashmir, who had languished for over 20 years in Indian jails. It was to be hoped that India would release all political prisoners, grant international human rights organizations access to Kashmir, lift the Draconian emergency laws and withdraw its army of occupation from Kashmir. The international community must use its influence to improve the human rights situation in that part of the world. Third, Pakistan believed that sincere and constructive negotiations should be started in order to bring an early settlement to the Kashmir dispute. India must understand that any solution must be based on the freely expressed wishes of the population.

59. Pakistan was prepared to resume bilateral talks with India. It welcomed the Secretary-General's offer of his good offices to India and Pakistan and hoped that he would be able to contribute to the talks between the two countries and that the United Nations would monitor their progress, given the importance of securing a settlement that did not endanger international security and was not contrary to justice: in short, a peace that was not gained at any price.

60. Mr. MATEŠIĆ (Croatia) recalled that in the recent past there had been both advances and setbacks in the struggle against racism and racial discrimination.

One of the advances had been the emergence of a democratic and multiracial Government in South Africa as a result of the defeat of apartheid, one of the most odious manifestations of racism. His country wished the brave leaders who had dismantled apartheid success in establishing a State with full respect for human rights.

61. On the other hand, the fight against racism and racial discrimination had been dealt a serious setback in the former Yugoslavia and in Rwanda. The "ethnic cleansing" which had been conducted by Serbian forces in Croatia and in Bosnia and Herzegovina had resulted in the killing or forcible displacement of the Croat and other non-Serbian populations in close to one third of the territory of Croatia, and of the Muslims and Croat populations in approximately two thirds of the territory of Bosnia and Herzegovina. That was nothing short of genocide. He noted that the term "ethnic cleansing", coined by Serb commanders to describe their heinous policy, had become a convenient euphemism for those who wished to evade the necessary action under the Convention on the Prevention and Punishment of the Crime of Genocide.

62. The genocidal acts which had been seen in Croatia, Bosnia and Rwanda demonstrated the need for a critical analysis of the effectiveness of current human rights mechanisms, including those on racial discrimination, and for the creation of new ones to deal quickly and effectively with such practices. The establishment of the International Criminal Tribunal for the Former Yugoslavia (ICTY) was certainly a welcome step. His Government intended to cooperate with the Tribunal and believed that another should be established for Rwanda. It was, however, concerned that the decision by the authorities of Serbia and Montenegro not to cooperate with the Tribunal could undermine its work. In addition, it was necessary not only to punish certain war criminals, but also to assist refugees and displaced persons in returning to their homes and in regaining possession of their property. Otherwise, it would not be possible for the victims of those criminals to feel that justice had been served.

63. His Government recognized the right of peoples to self-determination as a basic human right, especially since it was by exercising that right that the Republic of Croatia had gained its independence and assumed its rightful place in the international community. His delegation was also pleased that the same right had been exercised by many nations previously under colonial rule or other forms of alien domination or foreign occupation. However, it strongly condemned recent attempts to appeal to that right in order to justify armed aggression, the acquisition of territory through the use of force and the pursuit of a policy of genocide, as the Serbian side had done in order to justify the occupation of parts of the territory of the Republic of Croatia. Only 200,000 Serbs in Croatia had lived in areas where they constituted a local majority, corresponding to only some 4 per cent of the Republic's total population, yet according to certain Serbian plans, some 70 per cent of the territory of the Republic of Croatia was to have been incorporated into a Greater Serbia, supposedly to enable the Serbian population of Croatia to exercise its right to self-determination.

64. In addition, the Serbs had sought to dissect Croatian territory into various non-contiguous parts which would have been economically isolated, the goal being to create a situation whereby the Croatian people would not have been able effectively to exercise their right to self-determination. Serbian aggression had resulted in the occupation of over a quarter of Croatian territory. It should also be pointed out that even in those parts of Croatia where Serbs had been in the majority, Croats and others had constituted 38 per cent of the population; they too had the right to choose their destiny. The areas in question had been Croatian for over 1,000 years; they were also part of the internationally recognized territory of the Republic of Croatia. Furthermore, while the Serbian leadership claimed the right of self-determination for the Serb minority in Croatia, it denied that right to the 2 million Albanians in Kosovo, who constituted 90 per cent of the province's population, as well as to the hundreds of thousands of Hungarians, Croats and others living in Vojvodina and to Muslims in the Sandjak region, among others.

65. The Republic of Croatia had granted local autonomy to regions which had local Serbian majorities, and cultural autonomy to Serbs who, outside those regions, formed a sufficiently large portion of the population. The level of autonomy and the guarantees of respect for human rights contained in the Croatian Constitution were greater than the standards generally applied in the rest of Europe. The method of exercising the right to self-determination could indeed vary according to circumstances. However, the choice of method must be based on the principle of respect for human rights, not on recognition of what had been achieved through the use of force.

66. Croatia was willing to grant local autonomy status to those regions of Croatia where there had been a pre-war Serbian majority, but not to all the occupied territories, including those regions which had had pre-war Croat majorities, since that would be rewarding aggression and the genocidal policies which had been undertaken in those territories. Furthermore, Croatia expected the Croat minority in Serbia to be granted the same rights as the Serb minority in Croatia. In that regard, his Government considered that the recent statement by the Minister for Minorities of the so-called Federal Republic of Yugoslavia (Serbia and Montenegro), to the effect that the Croats living there did not have minority status, was particularly disturbing and not conducive to a negotiated settlement of the crisis in the region.

67. Ms. LEEDS (United States of America) said that the presence of the South African delegation was a testament to the possibility of peaceful change under difficult circumstances. She endorsed the view of the delegation of Algeria and others that the Centre for Human Rights should, as soon as possible, rethink the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination in the light of recent events in South Africa and elsewhere. The Decade was designed to combat racism, not study it. United Nations efforts should centre on devising a programme of education and training to combat the scourge of racism and racial discrimination in young people.

68. The United States Senate had consented in June 1994 to ratification of the International Convention on the Elimination of All Forms of Racial Discrimination. The instrument of ratification was expected to be deposited

shortly. By becoming a party to that important Convention, the United States had showed its commitment to stamping out all manifestations of racism. As a truly multi-racial society, it had a system of constitutional guarantees which could serve as a model for the protection of the fundamental rights of all individuals, regardless of race.

69. The Middle East was finally on a path towards lasting peace, thanks to the efforts of successive United States administrations but also, and above all, to the courage and foresight of Israeli and Arab leaders. Only that day, Israel and Jordan had announced progress towards resolving border and water issues.

70. In the context of agenda item 94, the General Assembly could no longer content itself with a rambling resolution, consisting of numerous paragraphs concerning unrelated parts of the world. It was time to bring the references to the Middle East, in any resolution that was adopted, into line with reality and to permit consensus adoption of a balanced and constructive text. The Organization's credibility with the parties currently engaged in earnest negotiation of the issues which continued to divide them was at stake. Her delegation could not accept a General Assembly resolution that prejudged the outcome of the Middle East negotiations. The discussion on that question should support, and not undermine, the ongoing process of peace negotiations.

71. All delegations should join in recognizing the historic importance of the Declaration of Principles on Interim Self-Government Arrangements, signed by Israeli and Palestinian leaders. The Committee should not allow old habits to prevent it from adjusting to new realities; it should agree on a text that supported the efforts of the parties to work out their differences in a spirit of respect and cooperation.

72. Mrs. WARZAZI (Morocco) informed the Ukrainian delegation that the text of the draft declaration on the rights of indigenous peoples, which it had believed to be incomplete because of the slow pace of work in the Subcommission on the Prevention of Discrimination and Protection of Minorities, had been adopted in 1994 after many years of work. Over 700 representatives of indigenous peoples and more than 80 observers had taken part in the work of the Working Group responsible for its drafting.

The meeting rose at 12.30 p.m.